

# Forest law compliance and governance in tropical countries



*A region-by-region assessment of the status of forest law compliance and governance in the tropics, and recommendations for improvement*



## Acronyms

ALFA	Amazonian Forest Law Application
CDM A/R	Clean Development Mechanism Afforestation/Reforestation
COMIFAC	Central African Forest Commission
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FLEGT	Forest Law Enforcement, Governance and Trade
ITTO	International Tropical Timber Organization
NTFP	non-timber forest product
OCTA	Amazon Cooperation Treaty Organization
REDD	reduced emissions from deforestation and forest degradation
SFM	sustainable forest management

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Written by Jürgen Blaser

Edited by Alastair Sarre

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This report was prepared on the basis of regional workshops on forest law compliance and governance held in 2006–2008 for countries in the Amazon region, Central and West Africa, Mesoamerica, and Southeast Asia. It formed the basis of the policy brief *Forest Governance and Climate-change Mitigation*, which was published jointly by ITTO and FAO in 2009 and is available at [www.itto.int](http://www.itto.int) and [www.fao.org/forestry](http://www.fao.org/forestry).

For more information please contact:

Eva Muller  
Team Leader, Forest Policy and Economics, FAO  
[Eva.Muller@fao.org](mailto:Eva.Muller@fao.org)  
[www.fao.org/forestry](http://www.fao.org/forestry)

Steven Johnson  
Communications Manager, ITTO  
[johnson@itto.int](mailto:johnson@itto.int)  
[www.itto.int](http://www.itto.int)

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## 1 Introduction

Wrongdoing in forests can take a number of forms. It can involve the ignoring of rules and regulations, the application of corrupt practices, the abuse of power, and the illegal harvesting and trading of products. It might also involve the illegal conversion of forests into other land uses (deforestation) and the irrational use of forests in general (leading to forest degradation). Deforestation and forest degradation (see Box 1 for definitions) have major, mostly negative impacts on the livelihoods and wellbeing of rural communities.

Issues related to forest law compliance and governance have received considerable recent attention in various international forums and processes (Box 2). There remains, however, considerable uncertainty about the extent to which poor forest law compliance and weak governance affect local livelihoods and national economies and how these shortcomings can best be addressed in the pursuit of sustainable forest management (SFM).

FAO and ITTO believe that forest law compliance and good forest governance are essential for countries and local forest-dependent communities. Together, the two organizations have been working to clarify the issues surrounding forest law compliance and governance and to assist countries to address these issues. The objective of this report is to summarize the main outcomes and lessons learned from five regional workshops on forest law compliance and governance conducted jointly by FAO and ITTO throughout the tropics. Based on the outputs of the workshops, the report makes a number of region-by-region recommendations and draws some general conclusions.

The five workshops (Table 1) were held between August 2006 and July 2008 with the aims of:

- promoting a multi-sectoral dialogue between the countries of a region and an exchange of ideas and experiences related to best practices for improving law compliance in the forest sector
- agreeing on tangible and deliverable actions to enhance progress on the ground.



## 1 Deforestation and forest degradation

*Deforestation* is the direct human-induced conversion of forested land to non-forested land. It is most often driven by factors outside the forest sector, including market failures such as the undervaluing of ecosystem services; perverse incentives such as agriculture subsidies; population pressures and the need to secure livelihoods; and corruption, greed, and the open-access nature of the resource.

*Forest degradation* is the reduction of the capacity of a forest to provide goods and services, where 'capacity' includes the maintenance of ecosystem structure and functions. A forest is being degraded when timber, fuelwood and other forest products are extracted in an unsustainable way, and when forest values are being lost or diminished.

Degradation is sometimes viewed as a precursor to deforestation and conceptualized as part of the same process. While it is true that, in some cases, degradation is followed by full deforestation, this is the exception rather than the rule. In the Brazilian Amazon and the Congo Basin, for example, it has been observed that unsustainable commercial logging (as the degradation driver) may be followed by agricultural clearance as migrant farmers move into the forest along logging roads. In many other places and in other types of forest, degradation is caused more by the extraction of forest products such as timber, fuelwood and fodder for subsistence or local marketing, or by patchy clearance and re-growth associated with small-scale shifting agriculture. In such areas, degradation very rarely leads to deforestation – but it may lead to the gradual loss of the productive and protective forest functions, and of carbon stocks.

A total of 291 participants from 46 countries and more than 20 international organizations contributed to the workshops. They included representatives of the three major stakeholder groups concerned with good governance in the forest sector:

1. the government sector, including representatives of forest agencies, the judiciary, and other relevant departments and ministries
2. civil society, including community groups and social and environmental NGOs
3. the private sector, including representatives of companies and industry/trade associations.

More than 20 regional and international organizations were also represented. The FAO/ITTO report *Best Practices for Improving Law Compliance in the Forest Sector*<sup>1</sup> served as the major background paper. For more information on the organization, inputs and outputs of each of the regional workshops, go to [www.fao.org/forestry/law/en](http://www.fao.org/forestry/law/en) or [www.itto.int/en/feature06/](http://www.itto.int/en/feature06/).

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<sup>1</sup> FAO and ITTO (2005). *Best Practices for Improving Law Compliance in the Forest Sector*. FAO, Rome, Italy and ITTO, Yokohama, Japan.



**Table 1 Overview of the five FAO/ITTO workshops on forest law compliance and governance**

Region	Date	Place	No of participants	Countries represented
Amazon	August 2006	São Paulo, Brazil	55	Bolivia, Brazil, Colombia, Ecuador, Guyana, Suriname, Peru, Venezuela
Central Africa	January 2007	Libreville, Gabon	63	Burundi, Cameroon, Central African Republic, Chad, Congo, Democratic Republic of the Congo, Equatorial Guinea, Gabón, Rwanda, São Tomé and Príncipe
Mesoamerica	June 2007	San Pedro Sula, Honduras	60	Belize, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama
Southeast Asia	September 2007	Manila, Philippines	51	Cambodia, Indonesia, Laos, Malaysia, Myanmar, Papua New Guinea, Philippines, Thailand, Timor-Leste, Vietnam
West Africa	July 2008	Accra, Ghana	62	Benin, Côte d'Ivoire, Ghana, Guinea Bissau, Guinea, Liberia, Nigeria, Sierra Leone, Togo

## 2 Main international forest governance initiatives

Under the World Bank's Forest Law Enforcement and Governance Program, three regionally based ministerial conferences in Asia, Africa and Europe, and North Asia were organized between 2001 and 2004 to harness high-level political engagement, achieve public recognition of the fundamental governance challenges facing forestry in these regions, and obtain commitments to improve the rule of law. Similar processes have been initiated in Central America and the Amazon region.

The Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan sets out the contribution of the European Union (EU) to addressing illegal logging, with particular emphasis on trade. The FLEGT Action Plan specifies the creation of voluntary partnership agreements between the EU and timber-producing country governments, which commit both parties to developing a timber-licensing scheme under which only legally produced, licensed timber will be allowed into EU markets.

The FAO/ITTO Initiative on Forest Law Compliance and Governance developed best-practice guidelines to address law compliance in the forest sector and organized five regional workshops (on which this report is based) to encourage the exchange of views between forest stakeholders on forest law compliance and governance issues, challenges and solutions.

## 2 Main challenges in forest law compliance and governance in the tropics

Each year, several million hectares of forested land are converted to non-forested land without prior authorization. Millions of additional hectares of forests are exploited unsustainably and thus become degraded, often beyond their capacities to fulfil their functions in the long run (see Box 1).

The drivers of deforestation and degradation are not, in most cases, the same, and neither are the actors. Deforestation is caused predominantly by the large-scale commercial conversion of forest for agriculture or ranching, the expansion of urban areas, and infrastructure development, some of which is sanctioned by government authorities and some of which is not. Most degradation, on the other hand, is the result of the unsustainable extraction of forest products by local populations as part of their livelihood strategies; an estimated 850 million hectares of tropical forest have been degraded in this way. Commercial selective logging in humid tropical forests is also an agent of forest degradation, although the total area affected – about 120 million hectares<sup>2</sup> – is somewhat smaller.



*The area of degraded forest is increasing in the tropics.*

Dry and deciduous forests in the tropics are particularly affected by degradation processes because their population densities are often higher than those in the humid forests. A common underlying cause of degradation in both dry and humid forests is a lack of secure local tenure rights, which means there is little incentive for local people to manage the forests on a sustainable basis.<sup>3</sup>

Since the actors and processes are different it follows that, in general, the strategies and programmes for addressing deforestation may differ from those aimed at reducing forest degradation. To deal effectively with the many types of forest degradation, degradation should be viewed not as the beginning of a deforestation process but as a form of poor forest management that needs to be improved.

2 ITTO (2002). *ITTO Guidelines for the Restoration, Management and Rehabilitation of Degraded and Secondary Tropical Forests*. ITTO Policy Development Series No. 13. ITTO, Yokohama, Japan.

3 See [www.fao.org/forestry/tenure/en](http://www.fao.org/forestry/tenure/en), [www.itto.int](http://www.itto.int) and [www.rightsandresources.org](http://www.rightsandresources.org) for more background on forest tenure.



*Most forest degradation is the result of the unsustainable extraction of forest products by local people.*



*Commercial selective logging in humid tropical forests is often an agent of forest degradation.*

A significant proportion of the world's timber, as well as non-timber forest products (NTFPs), comes from forests that have been or are being degraded. In many cases, such products are harvested, transported, processed and traded in violation of national laws. Illegal logging and associated trade have far-reaching environmental, social and economic consequences, including the loss of biodiversity and habitats, political instability, increased income disparities, and market distortions (Box 3).

Although the extent of illegal forest activities is notoriously difficult to quantify, their economic cost is likely to be large. The World Bank estimates, for example, that illegal logging alone causes annual losses in global market value of more than US\$10 billion and in government revenue of as much as US\$5 billion.<sup>4</sup>

The magnitude of the problem has prompted governments, with the help of international and non-governmental organizations as well as the private sector, to step up their analysis of the socioeconomic causes and consequences of insufficient forest law compliance. Studies have shown that issues to be resolved include:

- uncertainty surrounding land use and land-use change, and forest tenure and use rights
- flawed forest policy and legal frameworks
- weak forest law enforcement
- insufficient information on forest resources, coupled with increasing demand for forest products
- corruption and a lack of transparency.

Recently, a new dimension to forest law compliance has received particular attention. It is based on an increasing recognition of the role of forests in both mitigating and adapting to climate change. Deforestation and forest degradation in the tropics accounts for about 20% of global emissions of carbon dioxide. This makes forests the second most important contributor to global warming after fossil fuels and the largest source of greenhouse gas emissions in most tropical countries. On the other hand, well-managed forests, and a reduction in deforestation, can make a substantial contribution to climate-change mitigation by reducing forest-related greenhouse gas emissions and by sequestering carbon in growing forests.

Given the importance of forests in climate-change mitigation, proposals have been made within the United Nations Framework Convention on Climate Change and its Bali Action Plan to consider measures to encourage reduced emissions from deforestation and forest degradation (REDD) in the scope of a post-2012 climate-change regime. Such measures would also include considerable compensation to encourage REDD. For this, investments and financial flows of up to US\$20 billion per year could flow to the forest sectors of countries on the assumption that such flows would increase the economic incentives for protecting forests and thereby help to reverse the main drivers of deforestation and forest degradation.

In many tropical countries, a historical driver of deforestation has been non-compliance with forest-related laws and the poor governance of the forest resource; the substantial amount of illegal activities in the sector is a symptom of this failing. In the majority of countries with considerable potential for REDD (that is, countries with large forest areas and high levels of deforestation and degradation), illegal activities – both the conversion of forests for agricultural purposes, and forest degradation, particularly that caused by illegal logging – have been among the most significant drivers of deforestation.

<sup>4</sup> World Bank (2008). *Forest Sourcebook*. World Bank, Washington, DC, United States.



### 3 Forest law compliance and governance

*Forest law compliance* relates to the extent to which illegal operations take place in a forest. Illegal operations are those in which timber and NTFPs are harvested, transported, processed, bought or sold in violation of national laws; they generally lead to the gradual degradation of forest stands and forest land.

Illegal operations in the forest sector also occur when forests are converted to other land uses in an uncontrolled or unplanned manner. While much deforestation is a rational response to the needs of a growing population for food and land and is the result of economic planning by governments, significant amounts of deforestation remain uncontrolled and irrational.

Strategies to improve forest law compliance should be based on the assessment of the underlying causes of illegal acts and the identification of leverage points for combating corruption. Without sufficient political will, however, measures to improve forest law compliance have a limited chance of success.

*Forest governance* refers to the *modus operandi* by which officials and institutions acquire and exercise authority in the management of forest resources to sustain and improve the welfare and quality of life of those whose livelihoods depend on such resources. Good forest governance is characterized by predictable, open and informed policymaking based on transparent processes, a bureaucracy imbued with a professional ethos, an executive arm of government accountable for its actions, and a strong civil society participating in decisions related to forest-sector management and in other public affairs. Good governance is fundamental to achieving positive and sustained development outcomes in the sector, such as efficiency in resource management, an increased contribution to economic development and environmental services, and the equitable distribution of benefits.



*The role of forests in climate-change mitigation adds another dimension to efforts to address law compliance in forests.*

Even well-designed REDD initiatives will fail, therefore, unless there is firm political commitment to address corruption, the lack of transparency, and insufficient law compliance in the forest sector. While REDD might help to drive forest-sector reform, it will also require improved collaboration across sectors and greater stakeholder involvement.

While each country will need its own strategies to address illegal forest activities, most will include the following elements:

- ensuring that forest-related laws and policies are rational, equitable, transparent and streamlined
- improving forest monitoring and information-gathering
- strengthening national institutional capacities to enforce forest laws
- formulating policies in the forest and other sectors that take into account the economic and social dynamics that underlie illegal activities.

Four steps are critical for a successful strategic approach:

1. ensuring broad and inclusive stakeholder participation
2. addressing the underlying causes of illegality
3. prioritizing remedial actions
4. assessing the economic feasibility and social acceptability of proposed reforms.



*Ensuring broad stakeholder participation is a critical element for a successful strategic approach to forest governance and forest law compliance.*

### 3 Workshop outcomes

#### Issues in forest law compliance and governance



*Small operators, such as this charcoal-maker, are often poorly equipped to comply with convoluted administrative procedures.*

There was overall agreement at the workshops that the following five general factors<sup>5</sup> contribute to insufficient law compliance and governance in the forest sector.

- 1) *An inconsistent forest policy and legal framework:* problems arise when laws (both within the forest sector and between sectors) are incoherent, unrealistic and unenforceable and fail to address forest land tenure and use rights. Excessive regulations can mean that the transaction costs of legal operations are prohibitively high, making it impractical for many forest users to adhere to the law. This is particularly the case for community-based and other small and medium-sized enterprises, which are often poorly equipped to comply with convoluted administrative procedures and may therefore be forced to operate outside the law.

Internal contradictions in national legal frameworks are common. These can lead, for example, to a situation in which the forest authority or a customary forest owner is powerless to prevent outsiders from entering forest lands and extracting timber, minerals and other products because their claims are based on laws external to the forest sector. In certain cases, contradictory laws even outlaw the traditional livelihood strategies of local stakeholders.

A lack of political will is often a significant reason for such inconsistencies. Policy and legal reform can be further hindered by institutional failings and a lack of agreement among policymakers (especially between sectors) on the reforms needed and how they should be implemented. Thus, there is often no institution capable of making the necessary policy reforms.



*Deficiencies in coordination within and between forest-law-enforcement and judicial bodies decreases the risk that wrongdoers will be caught.*

- 2) *Insufficient enforcement capacity* is often due to institutional weaknesses coupled with a lack of transparency and accountability in the implementation of the forest policy and legal framework. Powerful vested interests that are directly or indirectly involved in illegal forest operations, and a lack of alternative economic opportunities for local people, can result in passive acceptance of forest illegality. Deficiencies in coordination within and between forest-law-enforcement and judicial bodies decreases the risk that wrongdoers will be caught and prosecuted. The enforcement of regulations on industrial capacity is often weak, leading to a disproportionate demand for logs that helps drive illegal forest land conversion, logging in national parks and other protected areas, and the over-harvesting of production forests.
- 3) *Insufficient information* about the condition of the forest resource and its change over time makes it difficult to monitor what is happening in forests and along the supply chain. For proper enforcement, information is needed on production activities, silvicultural operations, the movement of timber and NTFPs within a country, and the volume of cross-border and other trade, yet statistical systems and market information are often inadequate. The dissemination of data is often limited and existing information is not used effectively by stakeholders. Due to a lack of political will as well as budget constraints, advanced technologies for monitoring and control are not applied and stakeholders are excluded from monitoring activities. Knowledge gaps and insufficient training of forest law and forest management agents are additional stumbling blocks; even where some technological tools are available, they are often used and understood by a small minority of people. Stakeholder constituencies are weakly organized and thus unable to effectively monitor timber harvesting and trade.
- 4) *Corruption* in government institutions and the private sector and among local decision-makers is linked to a lack of transparency in policy implementation, the marginalization of rural people, and a lack of public scrutiny. Of particular concern is corruption related to the allocation of forest-use rights, including timber licences and forest concessions.

<sup>5</sup> These five factors were derived from: FAO and ITTO (2005). *Best Practices for Improving Law Compliance in the Forest Sector*. FAO, Rome, Italy and ITTO, Yokohama, Japan. They were presented to and debated at the workshops, and generally agreed, although with regional variations in emphasis.

In addition, poorly or irregularly paid law enforcement staff might be tempted to 'top up' their salaries by illegal means. Excessive discretionary powers and a lack of mechanisms for resolving disputes and conflicts can also lead to corruption.

- 5) *Market distortions for wood products* can occur in domestic and export markets where there are ready outlets for low-priced, illegally harvested products. In some regions, the uncontrolled transboundary trafficking of timber and NTFPs exacerbates this problem. Formal international and particularly domestic markets often provide inadequate incentives for producers who can demonstrate the legality and sustainability of their operations; legal producers struggle, therefore, to compete with illegal operators. Moreover, constantly changing requirements in international markets related to legality and sustainability make it difficult for tropical timber producers to take systematic corrective action, especially where this requires long-term investment and where the benefits of doing so are uncertain.

Table 2 summarizes the extent to which workshop participants believed that the general factors identified above applied in their respective regions. With the exception of the Amazon region workshop, all workshops highlighted flawed policy and legal frameworks as a major issue for forest law compliance and the achievement of SFM. Insufficient enforcement capacity was rated highly as an issue in West Africa and Mesoamerica, while a lack of information and knowledge was considered an important factor in the West Africa and Southeast Asia workshops. West African stakeholders were outspoken in identifying corruption of all kinds as a major problem; in contrast, this issue was not raised by participants in the Amazon region workshop. None of the regions made particular reference to price distortions related to forest products and markets. All regions except the Amazon directly or indirectly referred to forest law compliance and governance as an important element in the debate on forests and climate change.

**Table 2 Joint stakeholder assessment of the main factors contributing to insufficient forest law compliance in the five regions**

	Central Africa	West Africa	Amazon	Mesoamerica	Southeast Asia
<b>Inconsistent policy/legal framework</b>	Identified as a major obstacle	Identified as a major obstacle	Policies and legal framework need to be harmonized	Identified as a major obstacle	Identified as a major obstacle
<b>Insufficient enforcement capacity</b>	Limited capacity (training and funds)	Identified as a major obstacle	Institutions need to be strengthened	Identified as a major obstacle	Lack of independent oversight and insufficient funds
<b>Lack of data, information and knowledge</b>	Information generally not available	Identified as a major obstacle	Identified as a major prerequisite for SFM	Lack of information, particularly at community level	Identified as a major obstacle
<b>Corruption</b>	Mentioned by some countries	Identified as a major obstacle	Not mentioned as an issue	Mentioned by some countries	Political interference recognized
<b>Market distortions</b>	Considered an issue for timber exporters	Seen as an issue at regional level	Not mentioned as an issue	Regional approaches needed	Not mentioned as an issue



*For proper enforcement, information is needed on production activities, silvicultural operations, and the movement of timber and NTFPs within a country.*



*In some regions, the uncontrolled transboundary trafficking of timber exacerbates market distortions.*





*The direct participation of local stakeholders in clarifying land tenure is essential for the security of forest use in the Amazon.*



*Capacity constraints and a lack of funding are major stumbling blocks to SFM in Central Africa.*



*The enforcement of laws to regulate timber harvesting and trade is often beyond the capacities of state forest administrations.*

## Threats and challenges, by region

The workshops assessed the threats and challenges to forest law enforcement and governance in different ways. Two (those for Mesoamerica and West Africa) made an in-depth assessment of the issues and then proposed solutions, while the workshops for the Congo Basin and Southeast Asia focused mostly on solutions. The workshop for the Amazon region was characterized by a cautious approach that involved a general exchange of views and an explicit respect for the sovereign rights of countries to address forest law compliance and governance in their own ways; it was, therefore, difficult to draw firm conclusions from that workshop.

The main threats identified in each region are summarized below.

### Amazon<sup>6</sup>

Deforestation and legal insecurity with respect to land use and tenure are the main threats to forest law compliance in the majority of countries in the Amazon region. Restrictions on legal access to forest resources promote illegal behaviour. The direct participation of local stakeholders, including Indigenous people, in clarifying land access and tenure is essential for obtaining legal security for forest conservation and use. In most of the countries of the region, however, this has not yet materialized. In many countries, there is a lack of political commitment to address issues related to forest law compliance, giving rise to inconsistent and outdated laws, a lack of inter-sectoral coordination, and a lack of local capacity to enforce legislation and implement SFM. A lack of effective social control is one of the major drivers of illegal activities.

### Central Africa<sup>7</sup>

In all countries of Central Africa, a key constraint to SFM is a lack of compliance with existing forest laws at all levels of society. The impacts of this – deforestation, the degradation of forest resources, and the loss of state revenues – are similar in all countries. There are considerable differences, however, in forest law compliance between those countries that are timber exporters and those that have low forest cover but where, nonetheless, forest resources are important for rural people. In the latter, the illegal extraction of forest resources is widespread due to population pressure. In all countries, there is a lack of coordination between the three branches of government (executive, legislative and judicial) and little political commitment to apply and enforce forest policies and legislation. Capacity constraints and a lack of funding are other major stumbling blocks. There is a need for stronger ownership of the forest law enforcement process, which would help to deepen the commitment of the public and private sectors, and civil society, to collaborate and to create awareness of the need for action.

### Mesoamerica<sup>8</sup>

Illegal timber logging and associated trade seriously affect the stability of ecosystems, making them more vulnerable to climate change and soil degradation and affecting the quality and quantity of water resources. The net result is an increase in rural poverty and a reduction in the quality of rural life. Transboundary illegal timber logging and trade is a complex phenomenon; it is difficult to assess the full extent of the problem and its environmental impact. Complex organized crime networks are involved in a high percentage of the illegal logging and trade of timber sourced from the forests of the region.

Despite the many efforts made, the state forest administrations of countries in the region recognize that they have been unsuccessful in fighting illegal logging and trade. Most countries have legislation to regulate timber harvesting and trade activities, but the enforcement of these laws is beyond the capacities of the state forest administrations. Illegal timber logging and associated trade are a

<sup>6</sup> Summarized from nine country reports presented at the workshop.

<sup>7</sup> Summarized from the workshop report.

<sup>8</sup> Summarized from the San Pedro Sula Declaration, which was issued at the conclusion of the workshop, June 2007.



consequence of cross-sectoral policy weaknesses, a lack of commitment among stakeholders to forest policies and regulations, a deficient regulatory and legal framework, and limited institutional capacity for law enforcement, which can lead to corruption. Excessive restrictions on legal access to forest resources promote illegal logging and unauthorized land-use change. Only through the active and direct participation of all stakeholders involved will it be possible to fight forest-related crime. Illegal logging and trade distort the timber market, negatively affecting the profitability and competitiveness of the forest industry.

### *Southeast Asia<sup>9</sup>*

Although only 5% of the world's forests are located in Southeast Asia, the region accounted for nearly 25% of global deforestation in the previous decade, with illegal logging a major driver. A significant difficulty in addressing illegality in the forest sectors of Southeast Asian countries is the inconsistency of forest laws with other environmental laws and with regulations relating to customs and trade, banking, and anti-corruption, and also a lack of joint enforcement approaches between agencies. Moreover, there is often a lack of coordination between countries with respect to the resolution of transboundary issues. In most countries there is little independent oversight, giving rise to the potential for political interference in such matters as the awarding of concession areas.

### *West Africa<sup>10</sup>*

The illegal extraction of forest resources, including timber, fuelwood, medicinal plants and wildlife, and the associated trade of these products, is having a major ecological impact in West Africa. As a consequence, West African forests are becoming more vulnerable to climate change and the degradation of soil and water resources; their continued degradation is contributing to an increase in rural poverty, reducing environmental quality, and resulting in substantial losses in state revenues due to forgone taxes and fees. The following issues need particular attention:

- Transboundary illegal timber logging and trafficking across borders is a complex phenomenon in the region, and its magnitude is difficult to assess. In some West African countries, post-conflict situations exacerbate this problem.
- Most countries have legislation to regulate the harvesting and trade of timber and NTFPs, but the capacity for enforcement is weak and corruption is also a major obstacle to SFM.
- Illegal forest resource extraction and related trade at the national and international levels are a consequence of cross-sectoral policy weaknesses; a lack of commitment among stakeholders to respect, adhere to and enforce forest policies and regulations; a deficient regulatory and legal framework; and limited institutional capacity for law enforcement, which can lead to corruption.
- Excessive restrictions on legal access to forest resources (including unclear and insecure tenure, and overly bureaucratic procedures) promote the illegal extraction of forest resources and the encroachment of forest land.
- Illegal logging and trade, both at a large scale, such as commercial forest concessions, and at a small scale, such as pit-sawing, distort timber markets, negatively affecting the profitability and competitiveness of the industry.
- The extent to which policies and laws are implemented, the level of understanding of the issues surrounding forest law compliance, the use of new technology, and the participation of local communities in monitoring forest law compliance varies among countries in the region; the sharing of knowledge and experiences, therefore, is of great importance.



*In most countries in Southeast Asia there is little independent oversight, giving rise to the potential for political interference.*



*The illegal extraction of forest resources, including timber milled in illegal pit-saw operations, is having a major ecological impact in West Africa.*

<sup>9</sup> Summarized from the workshop report.

<sup>10</sup> Summarized from the workshop report.

## Country assessments

In four of the five workshops (the exception being the workshop for Southeast Asia), government representatives prepared reports describing the main issues and challenges related to forest law compliance and governance in their respective countries. Table 3 and Figure 1 summarize the responses for 36 countries according to the following ten groups:

1. deforestation, conversion and land-use change, and a lack of land-use planning (abbreviated to 'land-use change' in Figure 1)
2. flawed forest policies and legal framework ('policies')
3. poor law-enforcement capacities of the forest administration and judiciary system ('enforcement')
4. lack of capacity in forestry agencies and lack of inter-agency collaboration ('institutions')
5. lack of data, information, knowledge and training ('data')
6. corruption
7. illegal logging, timber theft and the illegal harvesting of NTFPs ('illegal logging')
8. market demand and failure, and price distortion ('markets')
9. lack of participation of local communities and local governments, and a lack of decentralization ('participation')
10. lack of funding for SFM and lack of technology ('funding').

The challenge to forest compliance and governance caused by deforestation and unauthorized land-use change was noted in 26 of the 36 country reports, and illegal logging was noted by 25 countries. Flawed policies, insufficient forest law enforcement, weak institutional capacities, and a lack of participation by communities and decentralized authorities were seen as major problems in more than half the reports. One-third of reports recognized the corruption of officials as a major issue for forest law compliance and governance in their countries.

**Figure 1 Challenges for forest law compliance and governance, as indicated in 36 country reports**

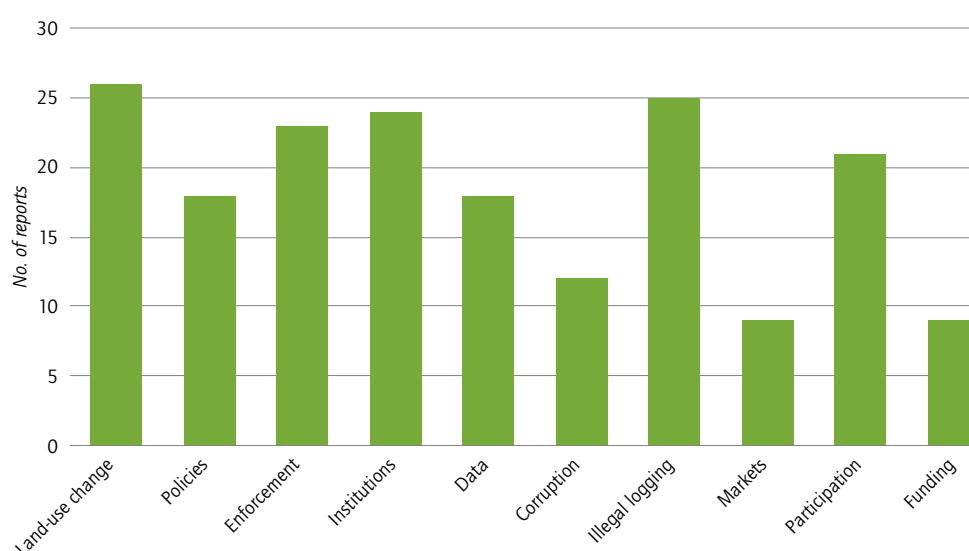


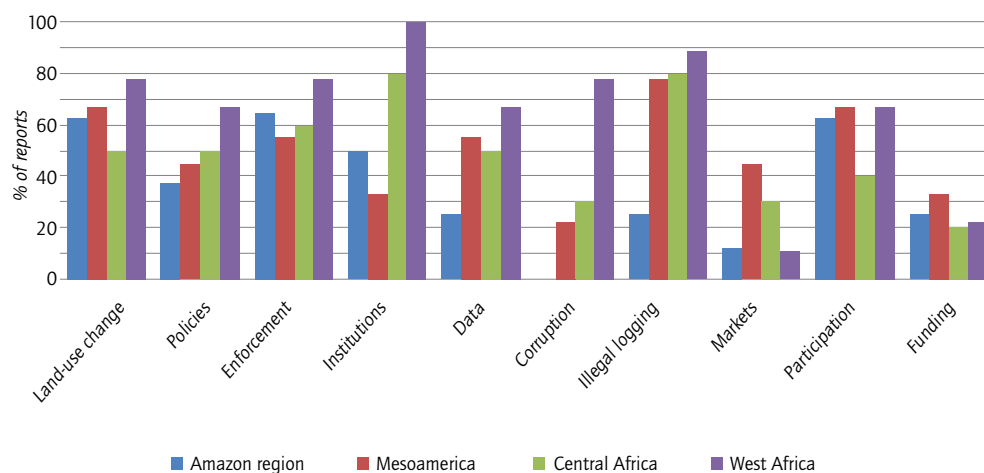
Figure 2 summarizes the identified challenges for forest law compliance and governance for each of the four regions for which reports were available. Important differences between the regions included the following:

- *Policies*: while a flawed policy and legal framework was recognized as an important issue in two-thirds of country reports for West Africa, this was true for fewer than 40% of the reports received from Amazon countries.
- *Institutions*: a lack of institutional capacity was identified as a problem in only one-third of country reports from Mesoamerica but as a major challenge in all country reports received from West Africa.
- *Data*: the lack of sufficient data and knowledge was recognized as an issue in only a quarter of country reports from the Amazon region but in 50–70% of country reports from the other regions.

*Corruption*: the most surprising result of the workshop surveys was that corruption was mentioned as an issue in none of the Amazon region's country reports, while in 70% of the West African country reports it was identified as one of the main threats to SFM.

- *Illegal logging*: illegal logging was mentioned as a problem in only a few Amazon countries. In the reports from all other regions it was considered to be one of the main challenges.
- *Markets*: in only a few country reports was market distortion mentioned as a challenge.
- *Participation*: the risks posed by a lack of participation was recognized in country reports from all regions, although least in Central Africa, where it was considered to be a major challenge in only 40% of the reports.
- *Funding*: the lack of funding for SFM was mentioned as a major problem for forest law compliance and governance in only a few country reports.

**Figure 2 Challenges for forest law compliance and governance, as indicated in country reports, four tropical regions**



**Table 3 Challenges related to forest law compliance and governance, as perceived by countries in reports prepared for the workshops**

Country, by region	Land use (planning, land-use change, deforestation)	Flawed policies and legal framework	Poor enforcement capacities, weak judiciary system	Weak institutions; lack of inter- agency collaboration	Lack of data, information and knowledge	Corruption	Illegal logging	Market and price distortion	Lack of decentralization / participation	Lack of funding for SFM, technology	Other issues mentioned
<b>Amazon</b>											
Bolivia	x	x	x				x		x		Lack of political will
Brazil	x								x	x	Need to implement proposed policies
Colombia	x		x		x				x		Illegal crops in forests
Ecuador		x	x	x					x		Indigenous peoples
Guyana	x			x				x			Climate change
Peru		x	x	x							NTPF management
Suriname			x	x	x		x				-
Venezuela	x								x	x	Transboundary migration
<b>Central Africa</b>											
Burundi	x			x			x		x		Internal migration
Cameroon					x	x	x	x			Commercial logging
Central African Republic		x		x	x		x				Poverty link; conflicts
Chad	x	x		x						x	Climate change
Congo	x		x	x		x	x		x		Bushmeat
Democratic Republic of the Congo		x	x	x	x	x	x		x	x	Centralized/decentralized management
Equatorial Guinea	x	x	x	x					x		Lacking link to international laws
Gabon			x	x			x	x			Bushmeat
Rwanda	x		x		x		x	x			Population pressure
São Tomé and Príncipe		x	x	x	x		x				Small-scale logging



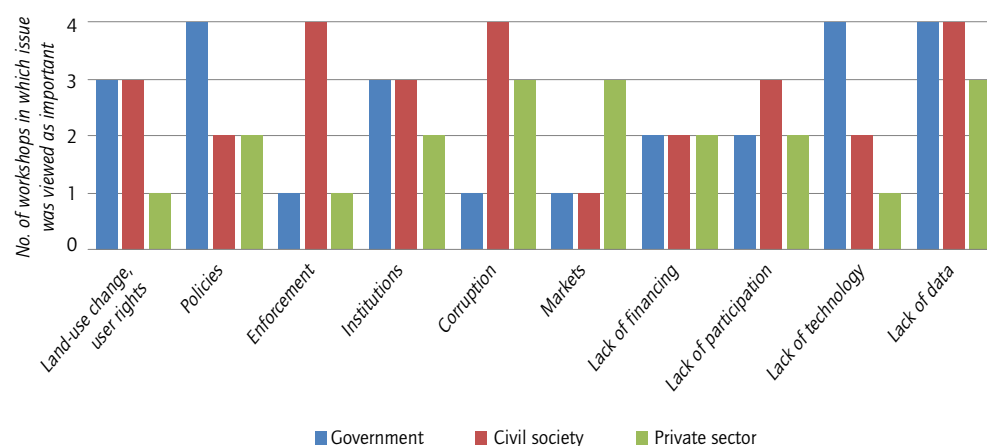
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<b>Mesoamerica</b>											
Belize		x					x		x		-
Costa Rica			x		x		x		x		Protected area management
Dominican Republic	x	x						x	x		
El Salvador	x	x	x	x		x	x				Extra-sectoral policies
Guatemala	x				x		x	x	x		Bad image of forestry
Honduras	x		x		x		x			x	-
Mexico	x			x				x		x	Lack of a forestry culture
Nicaragua		x	x	x	x	x	x		x		Capacity-building at all levels
Panama	x		x		x		x	x	x	x	Low priority of forests
<b>West Africa</b>											
Benin	x	x	x	x	x	x	x		x		Fuelwood and bushmeat
Côte d'Ivoire	x		x	x	x	x	x				Post-conflict situation
Ghana	x	x	x	x			x		x		Wood demand > supply
Guinea-Bissau	x	x	x	x	x	x	x			x	Bushmeat, small-scale logging
Guinea		x	x	x	x	x	x		x		Wood demand > supply
Liberia	x		x	x	x		x		x	x	Post-conflict situation
Nigeria	x	x		x		x		x			Unclear forest ownership
Sierra Leone		x		x		x	x		x		Post-conflict situation
Togo	x		x	x	x	x	x		x		Increasing market demand

Countries in Southeast Asia (Cambodia, Indonesia, Laos, Malaysia, Myanmar, Papua New Guinea, Philippines, Thailand, Timor-Leste and Vietnam) did not submit reports.

## Challenges as perceived by different stakeholder groups

Figure 3 summarizes the perceptions of the major challenges for forest law compliance and governance among three stakeholder groupings (i.e. governmental, NGOs/communities, and private sector – see Introduction), as expressed in separate stakeholder group meetings held during the workshops. The workshop in the Amazon region did not make public the deliberations of the stakeholder working groups, so their results are not included in the analysis.

**Figure 3 Consensus of stakeholder groups on the importance of various issues for forest law compliance and governance, by workshop**



Only four workshops included; data were unavailable for the Amazon region workshop.

Note that categories differ from those used in Figures 1 and 2.

In general, government and NGO stakeholders considered the issues surrounding land-use change and land rights to be critical for forest law compliance and forest governance, but the private sector perceived them to be less important. Government agencies also saw flawed policies and legal frameworks and a lack of technology, data, information systems, knowledge and training as major hindrances. Poor enforcement capacity was deemed important by the governmental and private-sector stakeholder groupings in only one of the workshops, but, in all workshops, it was a critical issue for the civil-society groupings. Civil-society organizations also rated corruption highly, and there was wide recognition of this issue in the private sector; in only one workshop, however, did government stakeholders rate corruption as a major issue for forest law compliance and governance. In some workshops the private sector recommended the better use of existing law-enforcement technology by forest authorities. Inadequate participation by communities and local governments was recognized by many stakeholders to be a major problem.

Table 4 summarizes stakeholder perceptions of the priority issues for forest law compliance and governance in four of the five regions.

**Table 4 Synopsis of stakeholder groups' main priorities for forest law compliance and governance, Central and West Africa, Mesoamerica, and Southeast Asia**

Stakeholder group	Priority issues	Observations
Government	Lack of adequate land-use planning Flawed policies Lack of institutional capacity Lack of technology Lack of data and information	The main issues identified were a lack of human resource capacity, a lack of technology and unclear resource access
Civil society	Insufficient land-use policies Poor enforcement capacity Institutional weaknesses Corruption Lack of participation Lack of data and information	The main issues identified were a poor legislative framework, weak enforcement capacity, and corruption
Private sector	Corruption Market failures and price distortion Lack of data and information	The main issues identified related to various forms of distortion with respect to the economic use of forests





*The Amazon region workshop underlined the sovereign rights of nations to use their natural resources according to national policies.*



*The Central Africa workshop recognized the need for stronger ownership by stakeholders of the forest law enforcement process.*



*The Mesoamerica workshop recommended strengthening the judicial and law-enforcement systems.*

## Conclusions, by region

The outputs of the five workshops allowed a number of conclusions to be drawn and recommendations to be made at the regional level.

### Amazon

The Amazon region workshop was the kick-off of the Amazonian Forest Law Application (ALFA) process, which is designed to produce national analyses and debate that will provide further inputs for a regional process taking place under the auspices of the Amazon Cooperation Treaty Organization (OCTA). Workshop participants agreed that forest law compliance issues were complex and underlined the sovereign rights of Amazonian nations to use their natural resources according to national environmental and developmental policies. In all countries, political engagement at all levels, the formulation, in a participatory manner, of national forest programmes, and judicial security were seen as prerequisites for proper forest law compliance. Social participation is a key to the implementation of SFM. Norms need to be simple and clear and understood by all stakeholders, and specific tools need to be further developed to allow the better control of forest-related infractions. Decentralized management was proposed as the key for proper forest law enforcement; this needs to be linked to better technical, operational and juridical coordination, appropriate technology, and increased capacity.

### Central Africa

Participants in the Central Africa workshop recognized the need for stronger ownership by stakeholders of the forest law enforcement process, including a deepening of commitment among the public and private sectors and civil society to collaborate and to create awareness of the need for firm action. Priority actions include the revision and harmonization of national forest-related policies and legislation with the involvement of all stakeholders; the building of national capacities for law enforcement; and the strengthening of the regional consultation and cooperation framework for the control of illegal transboundary activities. To support countries, the workshop proposed the reinforcement of forest control mechanisms through a binding inter-state convention.

### Mesoamerica

In order to reduce the high levels of illegal logging and trade, workshop participants proposed that countries in Mesoamerica<sup>11</sup> identify specific actions aimed at de-concentrating and decentralizing forest resource management, bringing about legal reforms and institutional strengthening, and increasing the use of economically and socially acceptable environmental practices and incentives.

At the level of forest policies and law enforcement, workshop participants recommended that countries develop national and regional land-use management and development plans to optimize the management of forest resources and the participation of local communities. This would ensure consistency and continuity in sectoral and cross-sectoral policies and legislation. Illegal logging should be categorized as a serious crime under a hierarchical system of severity. In other words, the penalties for forest illegality should be more severe for those who gain the most financial profit from it. In the context of illegal timber and NTFP harvesting and trade, the judicial and law-enforcement systems should be strengthened with the support of the competent authorities so as to guarantee respect for human rights and due process. A simple legal framework should be promoted and standardized at the regional level.

<sup>11</sup> See detailed recommendations in the San Pedro Sula Declaration, June 2007.



As a matter of priority, countries should prepare strategies to prevent and mitigate illegal logging and trade. Governments and international organizations should invest more to fight illegality in the forest sector. Workshop participants further recommended that governments should be obliged to provide communities with all the necessary information regarding forest harvesting activities and any other actions related to the management of forest resources, and to guarantee that all interested stakeholders are recognized and equitably represented in bodies established to promote law compliance.

### *Southeast Asia*

At the level of implementing policies and legal frameworks, participants at the Southeast Asia workshop recognized, foremost, the need for a commitment by governments to review and amend outdated laws and to enforce them equitably. There is also a need to review conflicting laws and enhance coherence by harmonizing laws at the national and sub-national levels. In view of the existing inadequate coordination among countries in the region, including on transboundary issues, mechanisms for regional collaboration should be enhanced. Strengthening institutional capacity for better forest law compliance and governance is key, and multi-stakeholder processes should be established to develop mechanisms that can ensure transparency, avoid conflicts of interest, and monitor performance within the broader good-governance concept and framework. Properly generating and using knowledge and information is crucial. In this context, ensuring access to and the transparency, reliability and timeliness of information is a matter requiring urgent action.

### *West Africa*

According to participants at the West Africa workshop<sup>12</sup>, governments, with the participation of civil society and other stakeholder interests, should review their forest policies and laws. They should, where necessary, introduce new forest policies and laws, taking into account obligations under international conventions as well as the need to address critical issues such as the management of the domestic wood market. Coordination among law enforcement agencies within and between countries should be improved. The distribution among key stakeholders of the benefits of forest use should be more equitable so as to encourage law compliance and SFM. Participatory processes are a key to success.

Fighting illegal logging and illegal timber trade requires specific investments by governments, international organizations and the private sector. Equally important is the creation of an enabling environment for the financing of forestry activities. This should extend to exploring alternative sources of funding such as carbon credits and endowment funds, and increasing the value-added of forest products. A crucial element is the establishment of mechanisms to empower local communities in the management of local forest resources and to provide them with the information they need to manage their forests.

In all countries, there is a need to increase capacity to collect forest-related data and to strengthen the management of information systems through collaboration between institutions, including NGOs and the private sector. Regional and transboundary (bilateral) collaboration is also essential, including through the creation of a regional policy and implementation platform for forest law compliance and governance, and the development of regional standards and markets for forest products from legal sources.



*Participants at the Southeast Asia workshop said that multi-stakeholder processes should be established to develop mechanisms that can ensure transparency, avoid conflicts of interest, and monitor performance.*



*According to participants at the West Africa workshop, the distribution among key stakeholders of the benefits of forest use should be more equitable so as to encourage law compliance and SFM.*

<sup>12</sup> See detailed recommendations in the Accra Declaration, which was issued at the conclusion of the workshop, July 2008.

## Recommendations, by region

Table 5 summarizes the recommendations made by the five regional workshops. Some are specific to the region and some are common to two or more regions. For example:

- In all regions except the Amazon, inadequate forest policies and incompletely harmonized legal frameworks were recognized as a main issue to be tackled when addressing forest law compliance. The underlying social, economic, cultural and political causes of non-compliance should be assessed and the policy and legal framework governing the forest sector should be modified accordingly. A particular recommendation in this regard is to strive for consistency in the regulatory framework to ensure that laws are not contradictory.
- In all regions, participatory and inclusive approaches were seen as a necessary element of success. Ensuring participatory approaches should help to promote transparency, improve the effectiveness of subsequent implementation, and ensure greater equity among all stakeholders, including local communities.
- Accurate and up-to-date information was considered essential in all regions in order to prevent, detect, monitor and report on illegal activities. In most countries, improved data are needed on deforestation and forest degradation in order to identify priorities for remedial action and to enforce the rule of law.
- The need for a regional approach, particularly to address illegal trade across borders, was identified in all regions except the Amazon.



**Table 5 Core recommendations (to governments) to promote forest law compliance and governance**

	Central Africa	West Africa	Amazon	Mesoamerica	Southeast Asia
<b>Policy and legal framework</b>	<p>Create national committees to amend and improve outdated legislative texts</p> <p>Create, in a participatory manner, national forest-sector policies</p> <p>Improve regional coordination (through COMIFAC) to harmonize legislation, improve transboundary control, and enhance control and monitoring technology</p>	<p>Review policies and laws, taking into account international conventions as well as the management of domestic wood markets</p> <p>Improve regional coordination (intra- and inter-country)</p> <p>Support the equitable distribution of the benefits derived from forest products and services</p> <p>Create incentives to prevent illegal practices and reduce corruption</p> <p>Harmonize land tenure, tree tenure, land use and planning</p> <p>Streamline fiscal regimes in the forest sector</p>	<p>It is a national sovereign decision to use natural resources and to define policies and adequate legislation</p> <p>Sustainable development in the Amazon region needs to contribute to the wellbeing of the people</p>	<p>Prepare national strategies to mitigate illegality in the forest sector</p> <p>Develop national and regional land-use plans to optimize SFM and participation in it</p> <p>Ensure agreement between forest-related policies and laws</p> <p>Introduce more stringent law enforcement methods for all types of illegality in forests</p> <p>Propose a legal framework that promotes transparency and good governance that can be applied at a regional level without interfering with national sovereignty</p> <p>Promote incentives in the processing and marketing of timber and NTFPs</p>	<p>Obtain a commitment from governments to amend outdated laws and to enforce the law equitably</p> <p>Review conflicting laws and enhance coherence by harmonizing laws at the national and sub-national levels</p> <p>Enhance mechanisms for regional collaboration to address illegal transboundary trade</p>

**Table 5 Core recommendations (to governments) to promote forest law compliance and governance (cont'd)**

	Central Africa	West Africa	Amazon	Mesoamerica	Southeast Asia
<b>Institutional capacity</b>	Enhance control capacities and forest law enforcement	<p>Promote investments to fight illegal logging and trade and to improve governance in the sector</p> <p>Provide an enabling environment for the financing of forest activities</p> <p>Promote research and encourage the use of appropriate technology</p> <p>Establish a mechanism to empower local communities in the management of local forest resources</p> <p>Provide communities with all necessary information regarding forests</p> <p>Establish multi-stakeholder platforms and increase the participation of local communities and local governments</p>	<p>Provide, at the national level, an enabling institutional environment, and promote the coordination and effective use of funds</p> <p>Strong technical institutions are needed to fulfil the functions assigned by the state</p>	<p>Improve the monitoring of forest use (through both official and independent units)</p> <p>Improve law enforcement (outside the sector) and create the necessary technical and legal capacity (e.g. environmental lawyers)</p> <p>Increase law enforcement capacity within the forest sector</p> <p>Promote investments to combat illegality</p> <p>Develop pathways for informing communities about their rights and obligations in forest use</p> <p>Create an ombudsman for forest law enforcement that can address requests by all stakeholders</p> <p>Facilitate and increase the participation of communities and local governments in SFM and forest law compliance and governance</p> <p>Promote the role of the private sector in forest law compliance and markets</p>	<p>Strengthen the institutional capacity for forest law compliance and governance</p> <p>Establish multi-stakeholder processes to ensure transparency</p> <p>Avoid conflicts of interest and monitor performance within the broader concept of good governance</p>



**Table 5 Core recommendations (to governments) to promote forest law compliance and governance (cont'd)**

	Central Africa	West Africa	Amazon	Mesoamerica	Southeast Asia
<b>Knowledge and information</b>	<p>Improve the knowledge and information base at all levels, including through the translation and simplification of forest laws and rules</p>	<p>Increase, at the level of each country in the region, the capacity to manage an adequate forest information database</p> <p>Strengthen the management of information systems through inter-institutional collaboration</p> <p>Promote technical assistance between the countries of the region. Develop a regional initiative to facilitate the adoption of principles, criteria and indicators for SFM</p> <p>Request support from international organizations to harmonize and strengthen capacities in relevant institutions</p> <p>Introduce timber-tracking systems in timber-producing countries</p>	<p>Strengthen the information base, including through the use of modern technology, as a prerequisite for SFM</p> <p>Develop an information system that is transparent and accessible to all interested users</p>	<p>Create public databases to improve transparency and equity in all kinds of forest operations</p> <p>Strengthen a central information system accessible to all public institutions</p> <p>Widen the technology used for controlling forest use and detecting illegal logging and associated transport and trade</p> <p>Explore the use of modern tools to monitor deforestation, timber harvesting, and timber trading</p> <p>Promote the transfer of successful technologies across the region</p>	<p>Properly generate and use knowledge and information</p> <p>Ensure access to and the transparency, reliability and timeliness of forest-related data</p>

## 4 General conclusions

A number of general conclusions can be drawn from the five regional workshops.

*Link forest law compliance to the wider governance agenda:* an over-emphasis on measures to promote law compliance could hamper efforts to improve governance. Law compliance and law enforcement are critical components of an effective system of forest governance. It has become clear, however, that, in many cases, reducing or eliminating the incentives that cause people to harvest timber or NTFPs illegally or unsustainably, and addressing the institutional weaknesses that create such incentives, require new kinds of processes and thinking that might go beyond the forest sector.

*Correcting unfair or contradictory legal frameworks:* efforts to address inadequacies in the policy and legal framework can only be successful if they are truly participatory, if they eliminate ambiguities between commercial and traditional resource use, and if they secure customary and Indigenous rights to access and use forest resources.

*Local illegalities:* some stakeholders are pushed into illegality by political and legal circumstances. A lack of land tenure, and a lack of access to finance, training and markets, often inhibit local communities from appropriately developing the forests in which they make their living. Some communities are forced to operate outside the law in order to exploit forest resources; this diminishes both the value of the products produced and, because it often involves unsustainable forest practices, reduces the quality of the resource.

*Participation:* while, in all workshops, there were calls for greater public participation in the development of forest laws and policies, how this might be achieved requires careful consideration. Setting up inclusive mechanisms and processes that give voice to local communities and allow poor and marginalized groups to participate is a complex challenge but generally requires effective political decentralization. Participatory approaches should help promote transparency, improve the effectiveness of subsequent implementation, and ensure greater equity.





*The uneven enforcement of existing forest laws is widespread:* this is mostly manifested in the harsher treatment of small-scale operators compared to those operating at a larger commercial scale. The even-handed enforcement of laws is a prerequisite for achieving SFM, and it requires participatory approaches and independent monitoring.

*Local government and community-based mechanisms are needed to ensure forest law compliance:* ensuring maximum transparency in resource allocation and gathering the data needed for effective resource assessment and monitoring, are both best done locally. This requires awareness-raising about laws and regulations at the local government and community levels, as well as improved planning, implementation and resource monitoring. In four of the five regions in which the workshops took place, recent shifts towards decentralized management and control have had beneficial effects for forest law compliance.

*Regional/transboundary cooperation:* in some countries there are signs that illegal forest activities, including illegal forest conversion and illegal logging, are an integral part of the political economy. Laws in such countries can be twisted by the vested interests that dominate politics. To some extent, at least, such problems could be addressed by increased cooperation through regional intergovernmental organizations such as the Central American Commission for the Environment and Development in Mesoamerica, OCTA in the Amazon, the Central African Forest Commission (COMIFAC) in Central Africa, and the Economic Community of West African States in West Africa. Increased bilateral collaboration between neighbouring countries to reduce the transboundary laundering of illegal timber could also play a role.

